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Federal Communications Commission

DA 97-450

DISTRICT OFFICE

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Amendment of Section 73.202(b),) MM Docket No. 96-122
Table of Allotments,) RM-8795
FM Broadcast Stations.) RM-8860
(Riverdale and Huron, California)¹)

REPORT AND ORDER
(Proceeding Terminated)

Adopted: February 26, 1997

Released: March 7, 1997

By the Chief, Allocations Branch:

1. The Commission considers herein the *Notice of Proposed Rule Making* ("Notice"), 11 FCC Rcd 6382 (1996), issued in response to a petition for rule making filed by Happy Nice Valley Broadcasting ("petitioner") proposing the allotment of FM Channel 252A to Riverdale, California, as that locality's first local aural transmission service. Petitioner failed to file comments in response to the *Notice*. Comments and a counterproposal were filed by Radio Coalinga Latino ("RCL").² No other comments were received.

2. The *Notice* raised the issue of whether Riverdale constitutes a *bona fide* "community", as that term is defined for purposes of Section 307(b) of the Communications Act, as amended by the Telecommunications Act of 1996, for allotment objectives. Although Riverdale is listed as a census designated place ("CDP"), thus raising a presumption of community status, such listing is not absolute for allotment purposes where the proposed locality may be devoid of the customary factors associated with determining community status such as commercial establishments, social, economic, cultural, or religious organizations, municipal services, or governmental units that identify themselves specifically with the proposed location. *See, e.g., East Hemet, Indio, Rancho California, Sun City and Temecula, California*, 4 FCC Rcd 7895 (1989). Therefore, petitioner was requested to provide sufficient information to demonstrate that Riverdale contains the enumerated indicia to qualify it as a community for allotment purposes.

3. In response to the *Notice*, RCL requested the allotment of Channel 252A to the incorporated community of Huron, California, (population 4,766),³ as that locality's first local aural transmission service, and stated its intention to apply for the channel if allotted. The

¹The community of Huron, California, has been added to the caption.

²Public Notice of the counterproposal was given August 14, 1996, Report No. 2148.

³Population figure was taken from the 1990 U.S. Census.

distance between Riverdale and Huron is 18 kilometers (11 miles), whereas a minimum distance of 115 kilometers (71 miles) is required between Class A co-channels. Therefore, the proposals are mutually exclusive.

4. As indicated above, in view of the petitioner's failure to respond to the *Notice*, and in the absence of any other party to express an interest and provide information relevant to our request, the proposal to allot Channel 252A to Riverdale, California, will be dismissed. See, *Kalispell, Montana*, 6 FCC Rcd 1281 (1991), and the Appendix to the *Notice*.

5. In light of foregoing, we shall consider the proposal filed by RCL. Based upon the interest expressed in providing a first local aural transmission service to the incorporated community of Huron, California, we will allot Channel 252A to that locality, as requested. Channel 252A can be allotted to Huron in conformity with the minimum distance separation requirements of Section 73.207(b)(1) of the Commission's Rules, provided the transmitter therefor is located at least 7.2 kilometers (4.5 miles) north-northeast of the community, utilizing coordinates 36-15-41 and 120-04-19.⁴

6. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective April 21, 1997, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED to include Huron, California, as follows:

<u>City</u>	<u>Channel No.</u>
Huron, California	252A

7. IT IS FURTHER ORDERED, That the petition for rule making filed by Happy Nice Valley Broadcasting requesting the allotment of Channel 252A to Riverdale, California (RM-8795) IS HEREBY DISMISSED.

8. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

9. The window period for filing applications for Channel 252A at Huron, California, will open on April 21, 1997, and close on May 22, 1997.

⁴The site restriction is required to avoid a short spacing to Station KKJG(FM), Channel 251B, San Luis Obispo, California, at coordinates 35-21-37 and 120-39-18.

10. For further information concerning the above, contact Nancy Joyner, Mass Media Bureau, (202) 418-2180. Questions related to the window application filing process for Channel 252A at Huron, California, should be addressed to the Audio Services Division, Mass Media Bureau, (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
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